

DEPARTMENT OF THE YOUTH AUTHORITY
INITIAL STATEMENT OF REASONS
FOR PROPOSED REGULATORY ACTION
Re: Medical and Dental Services

Amend Sections 4730, 4732, 4733, 4734, 4735, 4736, 4737, 4739, and 4740
within Title 15, Division 4, Chapter 3, Subchapter 3, Article 1

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT OR OTHER
CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO
ADDRESS:

Section 1712, Welfare and Institutions Code assigns responsibility to the Department of the Youth Authority (Department) to make and enforce all rules appropriate to the proper accomplishment of the functions of the Department.

The public problems are as follows:

- The Department's current regulations for medical and dental services do not meet Correctional Treatment Center standards and licensure law.
- The Department's current regulations for consent for medical or dental treatment do not differentiate between consent and informed consent which is required for complex treatment and procedures and psychotropic medication.
- The Department's current regulations have two different and inconsistent sections relating to compulsory medical or dental treatment, and do not require authorization from a court when a parent or guardian is not available for a minor.
- The Department's current regulations for abortion and family planning services have inaccurate statutory references.

SPECIFIC PURPOSE OF THE REGULATION:

The specific purpose is to amend sections for compliance with Correctional Treatment Center regulations and licensure law and to require informed consent for complex treatment and procedures and psychotropic medication. The specific purpose is also to clarify the standards for compulsory medical or dental treatment by establishing consistent criteria and defining potential cases where compulsory treatment may be sought from a court. Other sections have been revised for clarity and correction of statutory references.

The purpose of each section is described as follows:

Section 4730 is amended to include community standards in the guidelines for the provision of medical and dental treatment and to identify the Utilization Review Committee as the decision-making body in health care decision for borderline cases.

Section 4732 is amended to require a complete baseline health evaluation, rather than just a physical examination, for all wards. It also requires a complete history and laboratory tests in addition to a physical examination when the medical record is not available. It makes more specific the requirement to provide a ward a sufficient supply of medication upon release, by identifying wards with a disability, illness, or condition requiring continuous medical treatment and medication and authorizing the chief medical officer to approve the provision of a 30 day supply of the required medication for these wards.

Section 4733 is amended to require informed consent for complex treatment or procedures, as identified by the physician or dentist, and for psychotropic medication. It also defines informed consent and establishes criteria for the determination of whether a ward is competent to give informed consent. The provision of medical or dental treatment for wards under 18 years of age is also delineated.

Section 4734 is amended to address only the refusal of medical or dental treatment, i.e., the right to refuse and the right to revoke acceptance at any time. It also requires the physician or dentist to explain the consequences of the refusal to the ward or a parent or guardian, if the ward is under 18 years of age. This section notes that necessary medical or dental treatment may be administered without consent, or in the absence of a parent or guardian, and against the will of the ward, but does not, as in the previous section outline the criteria under which compulsory treatment may be administered. The amended section references Section 4735, which specifically addresses compulsory treatment and Article 1.5, Section 4746, which addresses involuntary psychotropic medication.

Section 4735 is amended to establish criteria under which authorization may be sought from a court for compulsory medical or dental treatment for wards 18 years of age older who refuse consent or for wards under 18 years of age when a parent or guardian refuses consent or is not available.

Section 4736 is amended to reflect the correct statutory reference. It is also amended to limit the option to return female wards who choose an abortion to the county of commitment to those housed in the Youth Authority as a diagnostic commitment pursuant to Section 704 or 707.2 of the Welfare and Institutions Code.

Section 4737 is amended to reflect the correct statutory references.

Section 4739 is amended to increase the scope to all off-site medical and dental treatment rather than just outside hospitalization.

Section 4740 is amended to delete subsection (b) which is also addressed in Section 4732(d)

NECESSITY:

The proposed regulatory actions are necessary for the following reasons:

- In 1987 the California Legislature created the correctional treatment center licensing category to ensure that inpatient medical services provided in California's correctional facilities meet minimum health care standards. The Youth Authority was exempted from the licensing requirements until January 1, 1996, and is currently in the process of upgrading its inpatient medical services to meet minimum health facility standards. The proposed regulatory actions are necessary for compliance with Correctional Treatment Center regulations and licensure law.
- The last amendment for the medical and dental services regulations was in 1985, and the proposed regulatory actions are necessary for updating, clarifying, and correcting these regulations.

TECHNICAL THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS:

The Department relied upon the following in proposing the amendment of this regulation:

- *Keyhea v. Rushen*, Solano County Superior Court No. 67432, Order Granting Plaintiffs Motion for Clarification and Modification of Injunction and Permanent Injunction, filed October 31, 1986.
- California Code of Regulations, Title 22, Chapter 12, Article 1, Sections 79501 through 79861.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS:

The Department finds that no alternatives to the proposed regulatory action are necessary as the proposed regulatory action is not applicable to private persons.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESS:

The Department finds that no alternatives to the proposed regulatory action are necessary as the proposed regulatory action is not applicable to businesses.